

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EDWARD C TIDWELL,

Plaintiff,

v.

KAISER FOUNDATION HEALTH PLAN,
INC., et al.,

Defendants.

Case No. [23-cv-00776-AGT](#)

ORDER ON MOTION TO COMPEL

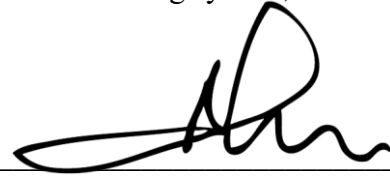
Re: Dkt. No. 53

On May 10, 2023, the Court granted defendants' motion to dismiss for lack of subject-matter jurisdiction. *See* Dkt. 46. On May 15, 2023, plaintiff filed a notice of appeal. *See* Dkt. 47. On May 30, 2023, plaintiff filed a motion to compel defendants to produce certain documents, including "the retainer agreement" between defendants and their attorneys. Dkt. 53 at 1. Plaintiff filed the motion to compel in this Court, but plaintiff presented the motion on a Form 27, which is a form used by the Ninth Circuit. The caption of the motion reads, "United States Court of Appeals for the Ninth Circuit." *Id.*

"[T]he filing of a notice of appeal generally divests the trial court of jurisdiction." *In re Silberkraus*, 336 F.3d 864, 869 (9th Cir. 2003). Relying on this "judicially-created doctrine," which seeks "to avoid the potential confusion and waste of resources from having the same issue before two separate courts at the same time," *id.*, the Court declines to consider plaintiff's motion to compel. The Clerk of the Court shall remove the motion from the Court's calendar and remove the gavel next to the motion on the Court's docketing system, CM/ECF.

IT IS SO ORDERED.

Dated: June 2, 2023



Alex G. Tse
United States Magistrate Judge